UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

JOD SELOU,

Plaintiff,

Case No. 15-cv-10927

v.

INTEGRITY SOLUTION SERVICES, INC.,

Defendant.
_______________________________________/

DEFENDANT INTEGRITY ACQUISITION, LLC.'s ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S SECOND AMENDED COMPLAINT

Defendant Integrity Acquisition, LLC. ("IA"), through counsel and pursuant to the Federal Rules of Civil Procedure, submits this Answer and Affirmative Defenses to the Second Amended Complaint filed by plaintiff Jod Selou ("plaintiff"), and states:

INTRODUCTION

1. IA admits plaintiff seeks redress for allegedly illegal practices in violation of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692*, et seq.*, the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227, the Michigan Occupational Code ("MOC"), M.C.L. § 339.901 *et seq.* and the Michigan Regulation of Collection Practice Act ("MRCPA"), MCL § 445.251, *et seq.,* but denies any liability, violations or wrongdoing under the law.

2. IA denies the allegations in ¶ 2 for lack of knowledge or information sufficient to form a belief therein.

3. IA denies the allegations in ¶ 3 for lack of knowledge or information sufficient to form a belief therein.

4. IA denies the allegations in ¶ 4 for lack of knowledge or information sufficient to form a belief therein.

5. The TCPA speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 5.

6. The TCPA speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 6.

7. The 2003 FCC Report and Order speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 7.

8. The 2008 Declaratory Ruling speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 8.

9. IA denies the allegations in ¶ 9 for lack of knowledge or information sufficient to form a belief therein.

10. IA denies the allegations in ¶ 10 for lack of knowledge or information sufficient to form a belief therein.

11. The FCC Rules and Regulation Implementing the Telephone Consumer Protection Act speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 11.

JURISDICTION AND VENUE

12. IA admits the allegations in ¶ 12 for jurisdictional purposes only.

13. IA admits the allegations in ¶ 13 for venue purposes only.

PARTIES

14. IA denies the allegations in ¶ 14 for lack of knowledge or information sufficient to form a belief therein.

15. IA denies the allegations in ¶ 15 for lack of knowledge or information sufficient to form a belief therein.

16. IA denies the allegations in ¶ 16 for lack of knowledge or information sufficient to form a belief therein.

17. IA denies the allegations in ¶ 17 for lack of knowledge or information sufficient to form a belief therein.

18. IA denies the allegations in ¶ 18 for lack of knowledge or information sufficient to form a belief therein.

19. IA admits the allegations in ¶ 19 for lack of knowledge or information sufficient to form a belief therein.

20. The website, https:www.integritysolutionservices.com/, speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 20.

21. The website, https:www.integritysolutionservices.com/, speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 21.

22. IA admits the allegations in ¶ 22.

23. IA admits the allegations in ¶ 23.

24. IA denies the allegations in ¶ 24.

25. IA denies the allegations in ¶ 25.

26. IA denies the allegations in ¶ 26 for lack of knowledge or information sufficient to form a belief therein.

27. IA denies the allegations in ¶ 27 for lack of knowledge or information sufficient to form a belief therein.

28. IA denies the allegations in ¶ 28 for lack of knowledge or information sufficient to form a belief therein.

29. IA denies the allegations in ¶ 29 for lack of knowledge or information sufficient to form a belief therein.

30. IA denies the allegations in ¶ 30 for lack of knowledge or information sufficient to form a belief therein.

31. IA denies the allegations in ¶ 31 for lack of knowledge or information sufficient to form a belief therein.

32. IA admits the allegations in ¶ 32 for lack of knowledge or information sufficient to form a belief therein.

33. IA denies the allegations in ¶ 33 for lack of knowledge or information sufficient to form a belief therein.

34. IA denies the allegations in ¶ 34 for lack of knowledge or information sufficient to form a belief therein.

35. IA admits the allegations in ¶ 35 for lack of knowledge or information sufficient to form a belief therein.

36. The website speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 36.

37. The website speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 37.

38. The website speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 38.

39. IA denies the allegations in ¶ 39 for lack of knowledge or information sufficient to justify a reasonable belief therein.

40. IA denies the allegations in ¶ 40 for lack of knowledge or information sufficient to form a belief therein.

41. IA denies the allegations in ¶ 41 for lack of knowledge or information sufficient to form a belief therein.

42. IA denies the allegations in ¶ 42 for lack of knowledge or information sufficient to form a belief therein.

43. IA denies the allegations in ¶ 43 for lack of knowledge or information sufficient to form a belief therein.

44. IA denies the allegations in ¶ 44 for lack of knowledge or information sufficient to form a belief therein.

45. IA denies the allegations in ¶ 45 for lack of knowledge or information sufficient to form a belief therein.

46. IA denies the allegations in ¶ 46 for lack of knowledge or information sufficient to form a belief therein.

47. IA denies the allegations in ¶ 47 for lack of knowledge or information sufficient to form a belief therein.

48. IA denies the allegations in ¶ 48 for lack of knowledge or information sufficient to form a belief therein.

49. IA denies the allegations in ¶ 49 as calling for a legal conclusion.

50. IA denies the allegations in ¶ 50 as calling for a legal conclusion.

51. IA denies the allegations in ¶ 51 as calling for a legal conclusion.

52. IA denies the allegations in ¶ 52 for lack of knowledge or information sufficient to form a belief therein.

53. IA denies the allegations in ¶ 53 for lack of knowledge or information sufficient to form a belief therein.

54. IA denies the allegations in ¶ 54 for lack of knowledge or information sufficient to form a belief therein.

55. IA denies the allegations in ¶ 55 for lack of knowledge or information sufficient to form a belief therein.

56. IA denies the allegations in ¶ 56 for lack of knowledge or information sufficient to form a belief therein.

57. IA denies the allegations in ¶ 57 for lack of knowledge or information sufficient to form a belief therein.

58. IA denies the allegations in ¶ 58 for lack of knowledge or information sufficient to form a belief therein.

59. IA denies the allegations in ¶ 59 for lack of knowledge or information sufficient to form a belief therein.

60. The allegations in ¶ 60 are not directed to IA and do not require an affirmative response.

FACTUAL ALLEGATIONS

61. IA denies the allegations in ¶ 61.

62. IA denies the allegations in ¶ 62 for lack of knowledge or information sufficient to form a belief therein.

63. The website speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 63.

64. IA denies the allegations in ¶ 64.

65. IA denies the allegations in ¶ 65.

66. IA denies the allegations in ¶ 66 as for lack of knowledge or information sufficient to form a belief therein.

67. IA denies the allegations in ¶ 67 for lack of knowledge or information sufficient to form a belief therein.

68. IA denies the allegations in ¶ 68 for lack of knowledge or information sufficient to form a belief therein.

69. IA denies the allegations in ¶ 69 for lack of knowledge or information sufficient to form a belief therein.

70. IA denies the allegations in ¶ 70 for lack of knowledge or information sufficient to form a belief therein.

71. IA denies the allegations in ¶ 71 for lack of knowledge or information sufficient to form a belief therein.

72. IA denies the allegations in ¶ 72 for lack of knowledge or information sufficient to form a belief therein.

73. IA denies the allegations in ¶ 73 for lack of knowledge or information sufficient to form a belief therein.

74. IA denies the allegations in ¶ 74 for lack of knowledge or information sufficient to form a belief therein.

75. IA denies the allegations in ¶ 75 for lack of knowledge or information sufficient to form a belief therein.

76. IA denies the allegations in ¶ 76 for lack of knowledge or information sufficient to form a belief therein.

77. IA denies the allegations in ¶ 77 for lack of knowledge or information sufficient to form a belief therein.

78. IA denies the allegations in ¶ 78 for lack of knowledge or information sufficient to form a belief therein.

79. IA denies the allegations in ¶ 79 for lack of knowledge or information sufficient to form a belief therein.

80. IA denies the allegations in ¶ 80 for lack of knowledge or information sufficient to form a belief therein.

81. IA denies the allegations in ¶ 81 for lack of knowledge or information sufficient to form a belief therein.

82. IA denies the allegations in ¶ 82 for lack of knowledge or information sufficient to form a belief therein.

83. IA denies the allegations in ¶ 83 for lack of knowledge or information sufficient to form a belief therein.

84. IA denies the allegations in ¶ 84 for lack of knowledge or information sufficient to form a belief therein.

85. IA denies the allegations in ¶ 85 for lack of knowledge or information sufficient to form a belief therein.

86. IA denies the allegations in ¶ 86 for lack of knowledge or information sufficient to form a belief therein.

87. IA denies the allegations in ¶ 87 for lack of knowledge or information sufficient to form a belief therein.

88. 15 U.S.C. § 1692b(1) speaks for itself and is best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 88.

89. IA denies the allegations in ¶ 89 for lack of knowledge or information sufficient to form a belief therein.

90. 15 U.S.C. § 1692b(2) speaks for itself and is best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 90.

91. IA denies the allegations in ¶ 91 for lack of knowledge or information sufficient to form a belief therein.

92. 15 U.S.C. § 1692b(3) speaks for itself and is best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 92.

93. IA denies the allegations in ¶ 93 for lack of knowledge or information sufficient to form a belief therein.

94. IA denies the allegations in ¶ 94 for lack of knowledge or information sufficient to form a belief therein.

95. IA denies the allegations in ¶ 95 for lack of knowledge or information sufficient to form a belief therein.

96. IA denies the allegations in ¶ 96 for lack of knowledge or information sufficient to form a belief therein.

97. IA denies the allegations in ¶ 97 for lack of knowledge or information sufficient to form a belief therein.

98. IA denies the allegations in ¶ 98 for lack of knowledge or information sufficient to form a belief therein.

99. IA denies the allegations in ¶ 99 for lack of knowledge or information sufficient to form a belief therein.

100. IA denies the allegations in ¶ 100 for lack of knowledge or information sufficient to form a belief therein.

101. IA denies the allegations in ¶ 101 for lack of knowledge or information sufficient to form a belief therein.

102. IA denies the allegations in ¶ 102 for lack of knowledge or information sufficient to form a belief therein.

103. IA denies the allegations in ¶ 103 for lack of knowledge or information sufficient to form a belief therein.

104. IA denies the allegations in ¶ 104 for lack of knowledge or information sufficient to form a belief therein.

105. IA denies the allegations in ¶ 105 for lack of knowledge or information sufficient to form a belief therein.

106. IA denies the allegations in ¶ 106 for lack of knowledge or information sufficient to form a belief therein.

107. IA denies the allegations in ¶ 107 for lack of knowledge or information sufficient to form a belief therein.

108. IA denies the allegations in ¶ 108 for lack of knowledge or information sufficient to form a belief therein.

109. IA denies the allegations in ¶ 109 for lack of knowledge or information sufficient to form a belief therein.

110. IA denies the allegations in ¶ 110 as calling for a legal conclusion.

111. IA denies the allegations in ¶ 111 for lack of knowledge or information sufficient to form a belief therein.

112. IA denies the allegations in ¶ 112 for lack of knowledge or information sufficient to form a belief therein.

113. IA denies the allegations in ¶ 113 for lack of knowledge or information sufficient to form a belief therein.

114. The FCC Order speaks for itself and is the best evidence of its contents. To the extent that plaintiff states otherwise, IA denies the allegations in ¶ 114.

115. IA denies the allegations in ¶ 115 for lack of knowledge or information sufficient to form a belief therein.

116. IA denies the allegations in ¶ 116 for lack of knowledge or information sufficient to form a belief therein.

Respondeat Superior

117. IA denies the allegations in ¶ 117 for lack of knowledge or information sufficient to form a belief therein.

118. IA denies the allegations in ¶ 118 for lack of knowledge or information sufficient to form a belief therein.

119. IA denies the allegations in ¶ 119 for lack of knowledge or information sufficient to form a belief therein.

120. IA denies the allegations in ¶ 120 for lack of knowledge or information sufficient to form a belief therein.

121. IA denies the allegations in ¶ 121 for lack of knowledge or information sufficient to form a belief therein.

122. IA denies the allegations in ¶ 122 for lack of knowledge or information sufficient to form a belief therein.

COUNT I

Negligent Violation of the Telephone Communications Protection Act

123. IA reasserts the foregoing as if fully incorporated herein.

124. IA denies the allegations in ¶ 124.

125. IA denies the allegations in ¶ 125.

126. IA denies the allegations in ¶ 126.

COUNT II

Willful Violation of the Telephone Communications Protection Act

127. IA reasserts the foregoing as if fully incorporated herein.

128. IA denies the allegations in ¶ 128.

129. IA denies the allegations in ¶ 129.

130. IA denies the allegations in ¶ 130.

COUNT III

Violations of the Fair Debt Collection Practices Act
15 U.S.C. § 1692 *et seq.*

131. IA reasserts the foregoing as if fully incorporated herein.

132. IA denies the allegations in ¶ 132, including its subparts a through e.

133. IA denies the allegations in ¶ 133.

COUNT IV

Violations of the Michigan Occupational Code

134. IA reasserts the foregoing as if fully incorporated herein.

135. IA denies the allegations in ¶ 135 as calling for a legal conclusion.

136. IA denies the allegations in ¶ 136 as calling for a legal conclusion.

137. IA denies the allegations in ¶ 137.

138. IA denies the allegations in ¶ 138.

139 IA denies the allegations in ¶ 139.

140. IA denies the allegations in ¶ 140.

141. IA denies the allegations in ¶ 141.

142. IA denies the allegations in ¶ 142.

143. IA denies the allegations in ¶ 143.

144. IA denies the allegations in ¶ 144.

COUNT V

Michigan Regulation of Collection Practices Act (Alternative to Count IV)

145. IA reasserts the foregoing as if fully incorporated herein.

146. IA denies the allegations in ¶ 146 for lack of knowledge or information sufficient to form a belief therein.

147. IA denies the allegations in ¶ 147 for lack of knowledge or information sufficient to form a belief therein.

148. IA denies the allegations in ¶ 148.

149. IA denies the allegations in ¶ 149.

150. IA denies the allegations in ¶ 150.

DEMAND FOR JUDGMENT FOR RELIEF

IA denies that plaintiff is entitled to the relief sought under Counts 1, II, III, IV and V.

IA' AFFIRMATIVE DEFENSES

1. To the extent that any violations are established, any such violations were not intentional and resulted from bona fide error notwithstanding the maintenance of procedures reasonably adopted and specifically intended to avoid any such error.

2. Plaintiff has not stated a claim upon which relief may be granted. First, the dialer used by IA does *not* meet the statutory definition of an "automatic telephone dialing system" because the dialer does *not* have the capacity to store or produce telephone numbers to be called, using a random or sequential number generator; and to dial such numbers. *See* 47 U.S.C. 227(a)(1). Further, plaintiff

has failed to allege and cannot assert facts necessary to establish standing to bring a private remedy claim under the TCPA or FDCPA.

3. IA denies any liability; however, regardless of liability, Plaintiff has suffered no actual damages as a result of IA' purported violations.

4. Plaintiff's claims, in whole or in part, are barred by the statute of limitations and/or laches.

5. Any harm suffered by plaintiff was legally and proximately caused by persons or entities other than IA and was beyond the control or supervision of IA or for whom IA was and is not responsible or liable. In particular and without limitation, the number at issue was provided to IA by the placing creditor with the express and/or implied warranty that the debtor consented to and authorized calls to the number.

6. Plaintiff's claims are barred by the doctrine of avoidable consequences, failure to mitigate, estoppel, waiver, unclean hands, consent and/or assumption of risk in that plaintiff: refused and/or failed to answer the calls or return the messages left; made no request for the calls to cease or otherwise object to the calls; and knowingly and intentionally allowed and facilitated the calls to continue with the sole purpose to accumulate statutory damages under the TCPA and FDCPA.

7. Plaintiff consented to and authorized calls to the phone number in question for the account that IA was working.

8. 1 or more calls made to Plaintiff by IA were not made to a cell phone.

9. 1 or more calls made to Plaintiff by IA were not made with a dialer.

10. Plaintiff's claims are subject to a binding arbitration agreement.

WHEREFORE, Defendant Integrity Acquisition, LLC, requests that the Court dismiss this action with prejudice and grant it any other relief that the Court deems appropriate.

Respectfully submitted

COLLINS EINHORN FARRELL PC

/s/Deborah A. Lujan

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Dated: November 13, 2015

CERTIFICATE OF SERVICE

I certify that on this 13th day of November, 2015, a copy of the foregoing was filed electronically in the ECF system. Notice of this filing will be sent to the parties of record by operation of the Court's electronic filing system, including Plaintiff's counsel as described below. Parties may access this filing through the Court's system.

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Respectfully submitted

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